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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-501

13 **BERNADETTE ANN CLAYTON**
1806 Ramona Avenue
14 South Pasadena, CA 91030

ACCUSATION

15 **Registered Nurse License No. 730683**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about July 10, 2008, the Board of Registered Nursing issued Registered Nurse
24 License Number 730683 to Bernadette Ann Clayton (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on August 31, 2013, unless renewed.

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1 **CAUSE FOR DISCIPLINE**

2 **(Out-of-State Discipline)**

3 8. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), in
4 that an order of "Sanction of Warning with Stipulations" was made against Respondent's health
5 care professional license issued to Respondent by the Texas Board of Nursing. Said order, which
6 also included certain terms and conditions, was issued and made effective as of September 13,
7 2011, before the Texas Board of Nursing, in the case entitled, *In the Matter of Registered Nurse*
8 *License Number 751150 & Vocational Nurse License Number 193991 issued to BERNADETTE*
9 *A. CLAYTON*. A copy of said order is attached hereto as Exhibit A. The findings of fact set forth
10 in said Texas order include the following:

11 a. On or about October 7, 2006, while employed as a Staff LVN with Del Sol Medical
12 Center, El Paso Texas, Respondent either failed to document her intervention or failed to
13 intervene with a patient who was admitted with a diagnosis of gastrointestinal bleeding, passed a
14 bloody, large, coagulated stool after being transferred to the Med-Surg floor. Respondent's
15 conduct deprived subsequent care givers of an adequate record or could have deprived the patient
16 of timely assessment and intervention by the physician.

17 b. The evidence received in the matter was sufficient to prove violations of law.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Board of Registered Nursing issue a decision:

21 1. Revoking or suspending Registered Nurse License Number 730683, issued to
22 Bernadette Ann Clayton;

23 2. Ordering Bernadette Ann Clayton to pay the Board of Registered Nursing the
24 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
25 Professions

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Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: December 19, 2012 *Stacie Ben*
for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	AGREED
Registered Nurse License Number 751150	§	
& Vocational Nurse License Number 193991	§	
issued to BERNADETTE A. CLAYTON	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of BERNADETTE A. CLAYTON, Registered Nurse License Number 751150 and Vocational Nurse License Number 193991, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on July 5, 2011, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent's license to practice professional nursing in the State of Texas and Respondent's license to practice vocational nursing in the State of Texas are both in delinquent status.
4. Respondent received a Certificate in Vocational Nursing from El Paso Community College, El Paso, Texas, on May 7, 2004. Respondent received an Associate Degree in Nursing from El Paso Community College, El Paso, Texas, on May 11, 2007. Respondent was licensed to practice vocational nursing in the State of Texas on July 8, 2004, and Respondent was licensed to practice professional nursing in the State of Texas on February 12, 2008.

5. Respondent's nursing employment history includes:

7/2004 - 6/2007	Staff Licensed Vocational Nurse (LVN)	Del Sol Medical Center El Paso, Texas
7/2007 - Present	Unknown	

6. At the time of the incident in Finding of Fact Number Seven (7), Respondent was employed as a Staff LVN with Del Sol Medical Center, El Paso, Texas, and had been in this position for two (2) years and three (3) months.
7. On or about October 7, 2006, while employed as a Staff LVN with Del Sol Medical Center, El Paso, Texas, Respondent either failed to document her intervention or failed to intervene when Patient MH, who was admitted with a diagnosis of gastrointestinal bleeding, passed a bloody, large, coagulated stool after being transferred to the Med-Surg floor. Respondent's conduct either deprived subsequent care givers of an adequate record or could have deprived the patient of timely assessment and intervention by the physician.
8. In response to the incident in Finding of Fact Number Seven (7), Respondent states she was working independently as a newly Licensed Vocational Nurse and no one from management at Del Sol Medical Center ever discussed the patient occurrence with her and she does not recall the incident or the patient. Respondent states the patient's hemoglobin and hematocrit were within normal limits when she gave report on the patient. Respondent points out the medical records show Patient MH had stable vital signs, laboratory studies and presentation for ten (10) hours after being admitted to the floor, which was five (5) hours after Respondent ceased caring for the patient. Respondent states since the blood in the stool was not bright red and was coagulated and since the patient had a history of gastrointestinal bleeding, she would have reviewed the patient's record and data with her charge nurse and determined together if the physician was required to be notified, but if the patient had presented with bright red blood or was a new bleed, she would immediately contact the physician.
9. Formal Charges were filed on January 3, 2011.
10. Formal Charges were mailed to Respondent on January 4, 2011.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§217.11(1)(B),(1)(D)&(1)(M) and 217.12(1)(B)&(4).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 751150 and Vocational Nurse License Number 193991, heretofore issued to BERNADETTE A. CLAYTON, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license(s) is/are encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:* <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Nurses. The didactic portion of this course shall be a minimum of six (6) hours in length. RESPONDENT SHALL perform physical assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical component SHALL focus on tasks of physical assessment only and shall be provided by the

same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins WILL NOT be accepted. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form, provided by the Board, to the office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: <http://learningext.com/hives/a0f6f3e8a0/summary>*

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64)

HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR TWO (2) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:

(4) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S licenses. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT'S licenses. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(5) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(6) RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse, who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to

provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(7) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for one (1) year of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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